



**U.S. Department of Justice**

*United States Attorney  
Southern District of New York*

*The Silvio J. Mollo Building  
One Saint Andrew's Plaza  
New York, New York 10007*

September 8, 2023

**BY ECF**

The Honorable Jennifer H. Rearden  
United States District Judge  
Southern District of New York  
500 Pearl Street  
New York, NY 10007

**Re: *United States v. Martin Handler, et al.*, 23 Cr. 004 (JHR)**

Dear Judge Rearden:

Pursuant to the Court's March 21, 2023 Opinion and Order (ECF No. 71 (the "Mar. 21, 2023 Op. & Order")), the Government provides below an update regarding the status of its search, pursuant to a search warrant (the "Search Warrant"), of cellphones seized incident to the arrests of defendants Martin Handler, Menachem Lieberman, Isidore Handler, and Ben Werczberger.<sup>1</sup>

**1. Lieberman Cellphone**

As noted previously, the Government has completed its extraction and review of data from the Lieberman Cellphone, produced the full contents of its extraction to Lieberman only on March 2, 2023, and produced data from the Lieberman Cellphone identified as responsive to the Search Warrant to all defendants on March 31, 2023.

**2. I. Handler Cellphone**

The Government has extracted data from the I. Handler Cellphone, and the Government produced the full contents of that extraction to Isidore Handler only on March 2, 2023. The volume of data extracted from the I. Handler Cellphone is substantial, comprising approximately 64.2 gigabytes.

On May 11, 2023, a forensic examiner at the FBI provided the prosecution team a set of the data extracted from the I. Handler Cellphone that a filter team reviewed and identified as not potentially privileged. On July 14, 2023, the prosecution team made an initial production to all

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<sup>1</sup> Unless otherwise defined, capitalized phrases are assigned the same meaning set forth in the Mar. 21, 2023 Op. & Order.

defendants of data from the I. Handler Cellphone that the prosecution team identified as responsive to the Search Warrant.

In light of Isidore Handler's recent guilty plea, the Government will no longer include updates regarding review of ESI from the I. Handler Cellphone in our biweekly updates to the Court, absent a request from the Court. Consistent with its Rule 16 obligations, the Government will continue to produce to all remaining defendants additional data from the I. Handler Cellphone that is identified as responsive during the Government's continued review of the device.

### **3. Werczberger Cellphone**

The Government has extracted data from the Werczberger Cellphone, and the Government produced the full contents of that extraction to Werczberger's counsel only on July 26, 2023, and August 2, 2023. The volume of data extracted from the Werczberger Cellphone is substantial, comprising approximately 204.9 gigabytes.

On August 25, 2023, the filter team notified the prosecution team that it has completed its review of data extracted from the Werczberger Cellphone for potentially privileged material. Thereafter, a forensic examiner at the FBI provided the prosecution team with a set of data released by the filter team. The prosecution team has since begun its review. At present, because the prosecution team's review is in an early stage, the Government is unable to estimate when it will be able to produce to all defendants any data from the Werczberger Cellphone that is identified as responsive.

### **4. M. Handler Cellphone**

On or about July 14, 2023, an FBI forensic examiner created an extraction of data stored on the M. Handler Cellphone. On the same day, the Government requested defense counsel provide the Government with a drive onto which the Government can copy the full contents of the M. Handler Cellphone extraction so that the Government can provide the full contents to Martin Handler only. Defense counsel provided such a drive to the Government on or about August 17, 2023; the next day, on or about August 18, 2023, the Government produced the full contents of an extraction of the M. Handler Cellphone to M. Handler's counsel only.

The volume of data extracted from the M. Handler Cellphone is substantial, comprising approximately 238.4 gigabytes, and a filter team is currently reviewing data extracted from the M. Handler Cellphone for potentially privileged material.

As noted in the Government's August 11, 2023, update to the Court concerning discovery, on August 10, 2023, while in the process of conducting a final quality-control check of non-document and non-email data that the filter team planned to make available to the prosecution team, the filter team identified additional data that requires review by the filter team before it can be made available to the prosecution team. Although the filter team has largely completed its review of the additionally identified data, there remain certain logistical and technical aspects of the review that still need to be completed before the filter team can make available any data to the prosecution team.

Accordingly, the Government is unable to estimate when the prosecution team will begin its review of data or when it will be able to produce to all defendants any data from the M. Handler Cellphone that is identified as responsive.

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Continued retention of the cellphones described above is necessary at this stage of the case, when it is unknown how, if at all, the defense will challenge the accuracy, reliability, or authenticity of the Government's data extraction, or how the defense will challenge chain-of-custody evidence concerning the cellphones.

Respectfully submitted,

DAMIAN WILLIAMS  
United States Attorney

By: /s/  
Jacob R. Fiddelman  
Catherine Ghosh  
Daniel H. Wolf  
Assistant United States Attorneys  
(212) 637-1024 / 1114 / 2337

cc: All Counsel of Record